

Compliance, Consultation, and Coordination

6.1 REGULATORY COMPLIANCE

The major Federal laws, regulations, Executive Orders, State of California laws and regulations, and tribal laws and regulations that apply to the Salton Sea Species Conservation Habitat (SCH) Project are identified below. A number of Federal environmental statutes address environmental protection, compliance, or consultation. In addition, certain environmental requirements have been delegated to state authorities for enforcement and implementation. The SCH Project would conduct its operations in an environmentally safe manner and in compliance with all applicable statutes, regulations, and standards. Although this section does not address pending legislation or future regulations, it is recognized that the regulatory environment is subject to change, and that Project construction and operation must be conducted in compliance with all applicable regulations and standards.

6.1.1 Federal Laws, Regulations, and Executive Orders

6.1.1.1 Clean Water Act of 1977 (33 United States Code Section 1251 et seq.)

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the Waters of the United States and regulating quality standards for surface waters. The basis of the CWA was enacted in 1948 and was called the Federal Water Pollution Control Act, but this Act was significantly reorganized and expanded in 1972. "Clean Water Act" became the Act's common name with amendments in 1977.

Under the CWA, the United States Environmental Protection Agency (USEPA) has implemented pollution control programs such as setting wastewater standards for industry. USEPA has also set water quality standards for all contaminants in surface waters. The CWA makes it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained. Point sources are discrete conveyances such as pipes or human-made ditches. USEPA's National Pollutant Discharge Elimination System (NPDES) permit program controls discharges. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters.

Section 404 of the CWA authorizes the Secretary of the Army, acting through the United States Army Corps of Engineers (Corps), to issue permits regulating the discharge of dredged or fill materials into the "navigable waters at specified disposal sites." Section 502 of the CWA further defines "navigable waters" as "waters of the United States, including territorial seas." "Waters of the United States" are broadly defined in Code of Federal Regulations (CFR), title 33, section 328.3, subdivision (a), to include navigable waters, perennial and intermittent streams, lakes, rivers, ponds, as well as wetlands, marshes, and wet meadows.

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The CWA section 404(b)(1) Guidelines govern the issuance of permits authorizing the discharge of fill material into waters of the United States, and state that:

...no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. (40 CFR section 230.10, subdivision (a))

Under the section 404(b)(1) Guidelines, the applicant must demonstrate avoidance or minimization of impacts on waters of the United States to the maximum extent practicable. Under the above requirements, the Corps can only issue a CWA section 404 permit for the "Least Environmentally Damaging Practicable Alternative." In addition, the Corps is prohibited from issuing a permit that is contrary to the public interest. (33 CFR section 320.4)

The section 404(b)(1) Guidelines also extend additional protection to certain rare and/or sensitive aquatic habitats. These are termed "special aquatic sites," and include six categories: sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle/pool complexes (40 CFR sections 230.40-230.45). For proposed activities involving discharges into special aquatic sites, the Guidelines require consideration of whether the activity is dependent on access or proximity to, or siting within, a special aquatic site in order to fulfill its basic project purpose. If an activity is determined not to be water dependent, the section 404(b)(1) Guidelines establish the following two presumptions (40 CFR section 230.10, subdivision (a)(3)), which the applicant is required to rebut in addition to satisfying the alternatives analysis requirements:

- That practicable alternatives not involving discharges of fill material into special aquatic sites are presumed to be available; and
- That all practicable alternatives to the proposed discharge not involving a discharge into a special aquatic site are presumed to have less adverse impacts on the aquatic ecosystem.

For non-water-dependent projects, the applicant must rebut these presumptions in order to demonstrate compliance with the section 404(b)(1) Guidelines. The SCH Project is water dependent.

A section 401 Water Quality Certification or waiver from the Colorado River Basin Regional Water Quality Control Board (CRBRWQCB) is also necessary for issuance of a Corps permit. Additional water quality permitting requirements may include compliance with the section 402 NPDES General Construction Permit for Storm Water Discharges Associated with Construction Activity (including the development of a Storm Water Pollution Prevention Plan) issued by the State Water Resources Control Board (SWRCB) for projects that will disturb one or more acres.

SCH Project construction would be performed under the California Department of Fish and Game's (DFG's) oversight and would include some actions likely to involve dredging, excavation, or placement of structures in Waters of the United States, including wetlands. The Project's Lead agency is preparing and requesting a section 404 Individual Permit. This permit will address Project-related impacts to the Waters of the United States and provide appropriate mitigation measures to minimize impacts.

The California Natural Resources Agency will submit an application for a section 401 Water Quality Certification from the CRBRWQCB and will also coordinate with the CRBRWQCB for requirements of the NPDES and stormwater program under CWA section 402 prior to Project construction. If deemed necessary, a Notice of Intent will be submitted to the CRBRWQCB to comply with section 402. A Storm Water Pollution Prevention Plan would be prepared to meet the states' requirements of the NPDES stormwater program prior to Project construction.

6.1.1.2 Endangered Species Act of 1973, as Amended (16 United States Code 1531 et seq.)

Passed in 1973, the Endangered Species Act protects threatened and endangered species (and their designated critical habitat), as listed by the United States Fish and Wildlife Service (USFWS), from unauthorized take and directs Federal agencies to ensure that their actions do not jeopardize the continued existence of such species. Section 9 prohibits such take, and defines take as to harm, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct. Whenever actions authorized, funded, or carried out by Federal agencies could adversely affect listed species, the action agency must conduct formal consultation under section 7 and under section 10 when no Federal involvement occurs. Consultation with the USFWS is required to identify endangered or threatened species and their habitats, assess impacts thereon, obtain necessary biological opinions and, if necessary, develop mitigation measures to reduce or eliminate adverse effects of construction or operations.

Section 7 consultation will be required between the Corps and USFWS as part of the section 404 Individual Permit process. Section 7 consultation will be facilitated by preparing and processing a Biological Assessment, which will form the basis of the subsequent USFWS Biological Opinion. The Biological Assessment is anticipated to address the following species: desert pupfish (*Cyprinodon macularius*), flat-tailed horned lizard (*Phrynosoma mcallii*), Yuma clapper rail (*Pallus longirostris yumanensis*), California least tern (*Sternula antillarum browni*), southwestern willow flycatcher (*Empidonax traillii extimus*), and least Bell's vireo (*Vireo bellii pusillus*).

6.1.1.3 Fish and Wildlife Conservation Act of 1980 (16 United States Code 2901)

The Fish and Wildlife Conservation Act of 1980 authorizes financial and technical assistance to states for the development, revision, and implementation of conservation plans and programs for nongame fish and wildlife. It also promotes Federal agencies to use their statutory and administrative authority to conserve and promote the conservation of nongame fish and wildlife and their habitats. In 1988 and 1989, amendments were adopted to direct the Secretary of the Interior to undertake certain activities to research and conserve nongame migratory birds.

The SCH Project would be consistent with this Act because the restoration of habitat would promote the conservation of nongame fish and wildlife species and their habitat. Furthermore, the establishment of land cover types that provide habitat for, and the conservation of, nongame fish, which also provide a food source and habitat for nongame migratory piscivorous bird species, is a central component of the SCH Project.

6.1.1.4 National Wildlife Refuge System Administration Act of 1966 (42 United States Code 668dd), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57)

This Act provides for the administration and management of the national wildlife refuge system, including wildlife refuges, areas for the protection and conservation of fish and wildlife threatened with extinction, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas.

The SCH Project would be consistent with this Act because the operation of the SCH ponds would include the restoration of some habitat areas located within the Sonny Bono Salton Sea National Wildlife Refuge (NWR). Without the restoration of habitat as part of the SCH Project, those portions of the existing NWR would become playa as the Salton Sea recedes.

6.1.1.5 Migratory Bird Treaty Act, as amended (16 United States Code 703-711)

The Migratory Bird Treaty Act requires management and protection of migratory birds and, specifically, restricts the killing, taking, collection, and selling or purchasing of native bird species or their parts, nests, or eggs. Certain game bird species are allowed to be hunted for during specific periods determined by Federal and state governments. Specific migratory birds covered under this Act are identified in separate agreements between the United States and Great Britain, Mexico, and Japan.

The SCH Project would be consistent with the Migratory Bird Treaty Act. The Project's restoration actions would benefit migratory birds by establishing conservation habitat areas for bird species protected by this Act. DFG will consult with USFWS regarding impacts to migratory birds as required by Executive Order (EO) 13186 (discussed below). Mitigation Measures (MMs) BIO-2 and BIO-4 would be implemented to ensure that the SCH Project would not entail the taking, killing, or possession of any migratory birds or waterfowl subject to this Act or result in an adverse impact to their associated habitat.

6.1.1.6 Migratory Bird Conservation Act of 1929 (16 United States Code 715)

The Migratory Bird Conservation Act of 1929 protects migratory birds by creating the Migratory Bird Conservation Commission. The Commission's purpose is to consider and approve the purchase, rental, or other acquisition of any areas of land or water that may be recommended by the Secretary of the Interior for the purposes of establishing sanctuaries for migratory birds.

No action is required under this Act. However, the SCH Project would be consistent with this Act's goals by providing conservation habitat for migratory piscivorous bird species.

6.1.1.7 Bald Eagle Protection Act of 1940 (16 United States Code 4901-4918)

The Bald Eagle Protection Act imposes criminal and civil penalties on anyone in the United States or within its jurisdiction who, unless excepted, takes, possesses, sells, purchases, barter, offers to sell or purchase or barter, transports, exports or imports at any time or in any manner a bald or golden eagle, alive or dead; or any part, nest or egg of these eagles; or violates any permit or regulations issued under this Act. The Secretary of the Interior may issue regulations authorizing the taking, possession, and transportation of these eagles for scientific or exhibition purposes, for religious purposes of Native American tribes, or for the protection of wildlife, agricultural, or other interests.

The SCH Project would be consistent with the Bald Eagle Protection Act because the restoration actions would not result in adverse impacts to bald or golden eagles.

6.1.1.8 Clean Air Act of 1970, as amended 1977 and 1990 (42 United States Code Section 7401 et seq. and 40 Code of Federal Regulations Parts 50 through 99)

The Clean Air Act's primary objective is to establish Federal standards (National Ambient Air Quality Standards [NAAQS]) for various pollutants from both stationary and mobile sources and to provide for the regulation of polluting emissions via State Implementation Plans (SIPs). The ambient air quality standards are intended to protect the public health and welfare and specify the concentration of pollutants (with an adequate margin of safety) to which the public may be exposed without adverse health effects.

The NAAQS were established for six major pollutants, termed "criteria" pollutants. Criteria pollutants are defined as those pollutants for which the Federal and state governments have established ambient air quality standards for outdoor concentrations to protect public health. The NAAQS are two tiered: primary, to protect public health; and secondary, to prevent degradation of the environment (e.g., impairment of visibility, damage to vegetation and property, etc.). The six Federal criteria pollutants are

1 ozone, carbon monoxide, particulate matter (which includes both PM₁₀ and PM_{2.5}), nitrogen oxides (NO_x),
2 sulfur dioxide, and lead. The USEPA uses ambient air data collected at permanent monitoring stations to
3 classify regions as “attainment” or “nonattainment” depending on whether the regions meet the
4 requirements stated in the primary NAAQS. Additional restrictions as required by USEPA are imposed
5 on nonattainment areas in an effort to reach attainment.

6 The Clean Air Act Amendments of 1990 identify specific emission reduction goals and require states with
7 nonattainment areas to achieve the NAAQS by developing a SIP. USEPA must approve the SIP and the
8 SIP serves as the state’s commitment to actions that will reduce or eliminate air quality problems. An
9 important aspect of the SIP is to designate a planning organization that will promulgate rules and
10 implement strategies to achieve the NAAQS.

11 Clean Air Act Amendments of 1990 section 176 prohibits Federal agencies from engaging in any activity
12 that does not conform to the most recent USEPA-approved SIP’s purposes of attaining and maintaining
13 NAAQS. Federally supported or funded activities must not (1) cause or contribute to any new violation of
14 any air quality standard; (2) increase the frequency or severity of any existing violation of any standard;
15 and (3) delay the timely attainment of any standard or any required interim emission reductions or other
16 milestones in any area.

17 The SCH Project would not require a major source permit under the National Emission Standards for
18 Hazardous Air Pollutants or New Source Review. In addition, the SCH Project would not have any New
19 Source Performance Standards to meet under the Clean Air Act. In addition, since annualized emissions
20 of nitrogen oxides, volatile organic compounds, and PM₁₀ and PM_{2.5} would be below the General
21 Conformity thresholds shown in Table 3.3-11, and daily emissions shown in Table 3.3-12 would not
22 exceed 10 percent of the emission inventory shown in Table 3.3-9 (and thus is not regionally significant),
23 General Conformity would not apply to the SCH Project.

24 SCH Project construction would result in temporary and intermittent increases in air quality emissions in
25 the Project area. However, these short-term increases cannot be avoided and are necessary to achieve the
26 long-term air quality benefits associated with the Project. Construction emissions would be minimized
27 through the implementation of feasible mitigation measures identified in Section 3.3, Air Quality, and
28 would cease upon completion of construction activities (i.e., although the Project would contribute
29 incrementally to violations of Federal ozone and PM₁₀ and PM_{2.5} standards during operation, it would not
30 exceed any regulatory thresholds). Therefore, the SCH Project is in compliance with Clean Air Act
31 Amendments of 1990 section 176.

32 6.1.1.9 Executive Order 13352, Facilitation of Cooperative Conservation

33 EO 13352 was issued on August 26, 2004. This EO’s purpose is to ensure that the Departments of
34 Interior, Agriculture, Commerce, and Defense, and the USEPA implement laws relating to the
35 environmental and natural resources in a manner that promotes cooperative conservation, with an
36 emphasis on appropriate inclusion of local participation in Federal decision making, in accordance with
37 their respective agency missions, policies, and regulations. Under this EO, cooperative conservation is
38 defined as “actions that relate to use, enhancement, and enjoyment of natural resources, protection of the
39 environment, or both, and that involve collaborative activity among Federal, state, local, and tribal
40 governments, private for-profit and nonprofit institutions, other nongovernmental entities, and
41 individuals.” The agencies referenced above are directed under this EO to carry out their efforts in a
42 manner that (1) facilitates cooperative conservation; (2) takes appropriate account of and respects the
43 interests of persons with ownership or other legally recognized interests in land and other natural
44 resources; (3) properly accommodates local participation in Federal decision making; and (4) provides
45 that the programs, projects, and activities are consistent with protecting public health and safety.

The SCH Project would be consistent with the principles of cooperative conservation. The SCH Project has been developed by coordinating Federal, state, local, and other public and private Stakeholders in California with interests in restoring habitat and related resources at the Salton Sea. State and Federal Stakeholders would also be responsible for implementing and funding the SCH Project. The Stakeholders have taken appropriate account of and respect the interests of persons with ownership or other legally recognized interests in land and other natural resources in the SCH ponds vicinity. Siting criteria and mitigation measures identified in this Environmental Impact Statement/Environmental Impact Report (EIS/EIR) would be sufficient to reduce or avoid the SCH Project's potential adverse impacts (with the exception of potential short-term air quality impacts). Lastly, the SCH Project would be implemented in a manner that is consistent with protecting public health and safety.

6.1.1.10 Executive Order 11988, Floodplain Management

EO 11988 states that each Federal agency will avoid development in floodplain areas to the extent practicable, to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by floodplains. Federal agencies are directed to determine whether a proposed action would occur in a floodplain and, if so, to consider alternatives to avoid adverse effects and incompatible development in the floodplain. If development in a floodplain is deemed necessary, the Federal agency must prepare and circulate a notice explaining why the action is proposed for the floodplain area. Agencies are to provide opportunity for early public review of any proposed actions in floodplains.

The SCH Project would be consistent with EO 11988. The Project would minimize development in floodplain areas because the SCH ponds would be located within the Salton Sea's current boundaries, which, by definition, are not considered floodplains. Portions of the Project, including water diversion facilities and sedimentation basins, would be located adjacent to the New and/or Alamo rivers, but these facilities would not increase the risk of flood loss or affect the impact of floods on human safety, health, and welfare. The SCH Project would be consistent with EO 11988's intent because it would restore the natural and beneficial values served by floodplains by restoring native habitat. If the SCH pond berms failed, the impounded water would be released directly to the Salton Sea or onto exposed playa where it would then flow to the Sea, and such failure would not expose people to risk of injury or death. The bottom of the sedimentation basin would be from approximately 15 to 20 feet below the ground surface and, therefore, would not pose a flood hazard.

The SCH Project would include a trailer or similar facility that would serve as office space for the permanent employees. It would be constructed on adjacent ground above the -228-foot elevation, which would be in the Zone A delineated by the Federal Emergency Management Agency. Any facility would be constructed in conformance with Imperial County's floodplain regulations for elevation, flood proofing, and tie-downs (for a trailer). These design features would reduce the flood potential and, therefore, by design avoid any flooding-related impacts.

6.1.1.11 Executive Order 11990, Protection of Wetlands

EO 11990 states that each Federal agency will provide leadership and take action to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities. The EO does not apply to Federal agencies' issuance of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property. Federal agencies are to provide opportunity for early public review of any proposed plans or proposals for new construction in wetlands.

The SCH Project includes some actions that would involve dredging, excavation, or placement of structures in Waters of the United States, including wetlands. Such actions would require permits under

CWA section 404. The implementing parties would consult with the Corps to ensure that permitting requirements are met, including due consideration of alternative locations and methods that could accomplish the same objectives. The conservation actions would utilize locations and methods that preserve and enhance the natural and beneficial values of those wetlands. The SCH Project would not conflict with EO 11990 and includes measures to preserve and enhance the natural and beneficial values of wetlands, as directed.

6.1.1.12 Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

EO 12898 mandates that each Federal agency will make achieving environmental justice part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Federal agencies are encouraged to include demographic information related to race and income in their analysis of the environmental and economic effects associated with their actions.

Section 3.7, Environmental Justice, identifies environmental justice impacts associated with short-term air quality emissions during construction, exposure and damage to undiscovered prehistoric and historic resources, and inadvertent discovery of human remains. Implementation of MMs AQ-1 and AQ-2 would reduce the fugitive dust (PM₁₀) and nitrogen oxides impacts, but the short-term nitrogen oxides impact would be significant and unavoidable for all alternatives, and the fugitive dust emissions would be significant and unavoidable for Alternatives 1 to 3. Implementation of MM CR-1, prepare and implement a survey plan and an inadvertent discovery plan would reduce impacts on cultural resources to less than significant.

6.1.1.13 Executive Order 12962, Recreational Fisheries

EO 12962 states that each Federal agency will, in cooperation with states and tribes, improve the quantity, function, sustainable productivity, and distribution of the United States' aquatic resources for increased recreational fishing opportunities.

The SCH Project would not adversely impact recreational fisheries. Rather, the SCH Project could create recreational opportunities for fishing at the SCH pond sites. Fish would not be intentionally stocked for the purpose of providing recreational fishing opportunities; however, such opportunities may be provided at the SCH ponds, in particular for tilapia. Fish populations would be monitored as a metric of the SCH Project's success. If populations became well established and appeared to provide fish in excess of what birds were consuming, recreational fishing may be allowed.

6.1.1.14 Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds

EO 13186 is primarily intended to assist Federal agencies in complying with the Migratory Bird Treaty Act and to reduce the risk to Federal agencies associated with unintentional take of migratory birds. It encourages agencies to carry out certain actions, as appropriate and practicable, to promote the conservation of migratory birds, such as restoring and enhancing migratory bird habitat; designing migratory bird habitat conservation measures and practices into agency plans; evaluating impacts of proposed Federal actions upon migratory birds in conjunction with complying with NEPA; and minimizing potential take of migratory birds in cooperation with USFWS.

SCH Project implementation would meet EO 13186's intent by restoring migratory bird habitat at the Salton Sea.

6.1.1.15 National Historic Preservation Act (16 United States Code 470)

Federally funded undertakings that have the potential to impact historic properties are subject to National Historic Preservation Act section 106. Under section 106, Federal agencies are prohibited from approving any Federal “undertaking” (including the issuance of any license, permit, or approval), without (1) taking into account the effects of the undertaking on the historic properties; and (2) affording the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking. In addition, under this Act, Federal agencies are responsible for the identification, management, and nomination to the National Registry of Historic Places of cultural resources that would be impacted by Federal actions.

The Corps will undertake section 106 consultation related to the SCH Project with the State Historic Preservation Officer. Consultation would include delineation of the Project’s Area of Potential Effects and request concurrence with the findings of the cultural resources investigations for the Project.

6.1.1.16 Archaeological Resources Protection Act (16 United States Code 470)

The Archaeological Resources Policy Act of 1979 provides for the protection of archaeological resources on public and Indian lands. Protection of archaeological resources, under this Act’s guidelines, includes consideration of excavation and removal of resources, enforcement of this Act, and confidentiality of information concerning the nature and location of archaeological resources. It also provides substantial criminal and civil penalties for those who violate this Act’s terms.

The SCH Project has the potential to adversely affect cultural resources, but would be in compliance with this Act given the implementation of MM CR-1, identified in Section 3.5, Cultural Resources.

6.1.1.17 Pollution Prevention Act of 1990 (42 United States Code 13101)

The Pollution Prevention Act of 1990 was enacted to focus industry, government, and the public on source reduction (pollution prevention) rather than upon treatment and disposal. The United States national policy is that (1) pollution should be prevented or reduced at the source, whenever feasible; (2) pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; (3) pollution that cannot be prevented or recycled should be treated in an environmentally safe manner, whenever feasible; and (4) disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

The SCH Project would contribute only minor amounts of pollution, primarily during the construction phase and during maintenance activities. Moreover, only minimal amounts of solid waste requiring disposal would be generated during construction and operations and would be disposed of in an environmentally safe manner. The SCH Project would be consistent with this Act.

6.1.2 State of California Laws and Regulations

6.1.2.1 California Endangered Species Act (California Fish and Game Code Section 2050-2116)

The California Endangered Species Act prohibits the take of listed species without authorization from the DFG. DFG may authorize the taking of listed species if certain conditions are met. As described in Section 3.4, the SCH Project could impact listed species. Therefore, it is anticipated that a section 2081 incidental take permit would be issued by DFG for the SCH Project’s construction and maintenance activities.

6.1.2.2 California Lake and Streambed Alteration Program (Fish and Game Code Section 1600 et seq.)

This Program requires any person, state, or local government agency, or public utility proposing a project that could divert, obstruct, or change the natural flow of any bed, channel, or bank of a river, stream, or lake to notify DFG before beginning the project. If DFG determines that the project could adversely affect existing fish and wildlife resources, a Lake or Streambed Alteration Agreement is required. Such an agreement would be required for the SCH Project.

6.1.2.3 Porter-Cologne Water Quality Control Act (Division 7, California Water Code)

The Porter-Cologne Water Quality Control Act modified the California Water Code to establish the responsibilities and authorities of the SWRCB and nine RWQCBs. The SWRCB formulates and adopts state policy for water quality control. The RWQCBs develop water quality objectives and Basin Plans that identify beneficial uses of water, establish water quality objectives (limits or levels of water constituents based on Federal and state laws), and define implementation programs to meet water quality objectives.

The SCH Project lies within CRBRWQCB's boundaries. The Salton Sea's salinity already exceeds CRBRWQCB's Basin Plan objective (it currently is approximately 51 parts per thousand, whereas the objective is 35 parts per thousand). As shown in Table 3.11-7, Salton Sea Salinity – No Action and SCH Project, the Sea's salinity is projected to increase regardless of whether the Project is implemented. The Project would result in an incremental increase in salinity over time, but it would be less than significant when compared to both the existing condition and the No Action Alternative; therefore, the SCH Project would be in compliance with the Porter-Cologne Water Quality Control Act and would not conflict with this Basin Plan.

6.1.2.1 California State Lands Commission Public Trust Doctrine

The California State Lands Commission (SLC) manages State-owned lands that underlie California's navigable and tidal waterways. The State holds these lands, known as "sovereign lands," for the benefit of all the people of the state, subject to the Public Trust for water-related commerce, navigation, fisheries, recreation, open space, and other recognized Public Trust uses." The precise jurisdiction of the SLC within the SCH Project area will be determined by the SLC, and lands within its jurisdiction would be subject to a lease for use of sovereign lands. Uses of trust lands, whether granted under a lease, or administered by the State directly, are generally limited to those that are water dependent or related, and include commerce, fisheries, and navigation, environmental preservation, and recreation. Public trust lands may also be kept in their natural state for habitat, wildlife refuges, scientific study, or open space. Ancillary or incidental uses (uses that directly promote trust uses, are directly supportive and necessary for trust uses, or that accommodate the public's enjoyment of trust lands) are also permitted.

The SLC has determined that parcel 020-010-030, which falls within the boundaries of Alternatives 4 and 6 (Figure 1-2), is within its jurisdiction and would require a lease that would be subject to findings of consistency with the Public Trust Doctrine and the Public Trust Policy administered by the SLC. The proposed uses for the SCH Project fall within the definition of uses consistent with the Public Trust Doctrine and Policy.

6.1.2.2 Imperial County Air Pollution Control District (ICAPCD) Regulation VIII, Fugitive Dust Rules (800-806)

The purpose of Regulation VIII, Fugitive Dust Rules 800 through 806 is to reduce the amount of particulate matter (PM₁₀) entrained in the ambient air as a result of emissions generated from anthropogenic fugitive dust sources (e.g., construction and other earthmoving activities, outdoor handling

of bulk materials, track-out and carry-out activities, etc.) generated from within Imperial County by requiring actions to prevent, reduce, or mitigate PM₁₀ emissions. Rules 800 through 806 apply to any active operation and/or human-made or human-caused condition or practice capable of generating PM₁₀ emissions as specified in this regulation.

The Project would be required to comply with Regulation VIII. In general, this regulation would require notifying ICAPCD, identification of fugitive dust mitigation measures, submittal for ICAPCD approval of a Fugitive Dust Control Plan, and designation of an individual responsible for implementation of the Fugitive Dust Control Plan. These actions will ensure that the SCH Project is in compliance with this ICAPCD regulation.

6.2 CONSULTATION AND COORDINATION

A Public Information and Outreach Plan was developed to ensure a transparent process in which all Salton Sea Stakeholders and interested members of the public have the opportunity to be informed about the SCH Project and to provide input to the process. The targeted audience includes the following:

- General public;
- County supervisors;
- Water district boards;
- City officials within the region/watershed;
- All local Stakeholder groups and key local leaders;
- Agricultural and environmental interests;
- Residents in the Salton Sea community;
- Tribes;
- Economic interests;
- Geothermal development companies;
- Salton Sea Authority members;
- Imperial Group members;
- All local State Legislators and other Legislators on key committees; and
- Local congressional members.

Additionally, certain statutes and regulations require the Corps and Natural Resources Agency to initiate consultations with Federal and state agencies and Federally recognized Native American groups regarding the potential for the SCH Project to disturb sensitive resources. The consultations are generally required before any land disturbance can begin. Most of these consultations are related to biological, cultural, and Native American resources. Biological resource consultations generally pertain to the potential for activities to disturb sensitive species or habitats. Cultural resource consultations pertain to the potential for destruction of important cultural or archaeological sites. Native American consultations are concerned with identifying tribal concerns and issues related to a proposed Project, including the potential for disturbance of Native American ancestral sites or traditional practices or resources. To date, a number of different outreach activities have been carried out, including compiling and using mailing lists for distribution of Project information, issuing newsletters and press releases, developing a California Department of Water Resources website containing information about the SCH Project, publishing official notices, and conducting public meetings and hearings.

6.2.1 Public Involvement

The scoping process, intended to solicit input into the contents of this EIS/EIR is described in Chapter 1. In addition, meetings have been held with the Imperial County Farm Bureau and geothermal development companies to obtain their input regarding the scope of this document and potential conflicts with existing and future land uses. A meeting also was held to obtain input from non-governmental organizations; those invited to participate included the Audubon Society, California Waterfowl Association, California Outdoor Heritage Alliance, Defenders Of Wildlife, Desert Protective Council, Environment Now, Pacific Institute, Planning and Conservation League, Sierra Club, the Nature Conservancy, and the Wildlands Conservancy. Project Quarterly Stakeholder meetings have been held for interested members of the general public to keep them apprised of Project progress and solicit their input regarding the design of the SCH Project and potential impacts. Table 6-1 summarizes the dates and locations of public involvement meetings.

Table 6-1 Public Involvement Meeting Dates and Primary Topics Addressed		
Meeting Date	Meeting Location	Primary Topics Addressed
Stakeholder Meetings & Workshops		
March 23, 2010	Palm Desert, CA	Update on the Salton Sea Restoration Program and Fund; information on the proposed Salton Sea Grant Program concepts; background information on the SCH Project; SCH Project overview; information on SCH Project NEPA/California Environmental Quality Act compliance, permitting, and design; and anticipated SCH Project schedule.
June 10, 2010	Palm Desert, CA	Stakeholder Meeting: Follow-up on March 23, 2010 Stakeholder Meeting; Period 1 Activity status; Salton Sea Restoration Fund update; information on the Salton Sea Funding Assistance Program; review and update on the SCH Project; and SCH Project Workshop updates. Workshop: Goals and objectives of SCH Project; SCH Project critical screening criteria; discussion of generalized alternative locations; SCH Project construction challenges; and discussion of next steps (design considerations).
October 19, 2010	Palm Desert, CA	Stakeholder Meeting: Follow-up on June 10, 2010 Stakeholder Meeting; current status of the Salton Sea; Salton Sea-related legislation update; information on the Salton Sea Financial Assistance Program; SCH Project EIS/EIR scoping (process and comments); SCH Project alternatives development process; information on conceptual alternatives for SCH Project; update on selenium treatment technologies and selenium management, in relation to the SCH Project; and a SCH Project schedule update. United States Geological Survey (USGS) Salton Sea Science Office Activities Update: information on the Salton Sea Seismic Imaging Project; information on the Light Detection and Ranging Project; information on the Desert Landscape Conservation Cooperative; general Salton Sea monitoring programs performed by the USGS; and a status update on the joint State-USGS Monitoring and Assessment Plan.
April 12, 2011	Palm Desert, CA	Follow-up on October 19, 2010 Stakeholder Meeting; Salton Sea Restoration Fund update; current status of the Salton Sea; current schedule of SCH Project; updates on SCH Project Stakeholder Meetings with the Imperial County Farm Bureau, Imperial Irrigation District, geothermal developers, NWR, vector control agencies, and elected officials; SCH Project special studies overview (fish tolerance study, hydrologic modeling, preliminary geotechnical studies, contaminant survey, selenium ecorisk, and adaptive management); SCH Project alternatives; and the

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		Salton Sea Financial Assistance Program.
Scoping Meetings		
July 7, 2010	Palm Desert and Thermal, CA	Purpose and need of the SCH Project; role of the Lead Agencies; goals of the SCH Project; possible alternatives locations; key SCH project components; current schedule; and overview of the SCH Project scoping process.
July 8, 2010	Calipatria and Brawley, CA	Please refer to the topics listed for the July 7, 2010 scoping meetings.
Imperial County Farm Bureau		
October 28, 2010	El Centro, CA	Relationship of the SCH Project to the Quantification Settlement Agreement; information on the changing Salton Sea conditions since the Salton Sea Programmatic EIR was certified; selenium and the SCH Project; water supply and water quality discussions relating to the SCH Project; dissolved oxygen levels and the SCH Project; geothermal development companies' interests and the SCH Project; SCH Project's potential impacts to agriculture in the Imperial Valley; SCH Project funding; and information on the SCH Project description.
Geothermal Development Companies		
November 8, 2010	Imperial, CA	Discussions on how the SCH Project and geothermal development companies either work together or co-locate resources that will satisfy both of their project goals and objectives.
November 15, 2010	Imperial, CA	Please refer to the topics listed for the November 8, 2010 geothermal development companies meeting.
December 15, 2010	Imperial, CA	Ram Power geothermal development plans; compatibility with the SCH Project; potential synergies between permitting efforts.
Nongovernmental Organizations		
May 23, 2011	Sacramento, CA and via teleconference	Financial issues, communications with Stakeholders, Financial Assistance Plan, Too much money being spent and nothing has been built.

6.2.2 Federal, State, and Local Agency Consultation and Coordination

Federal, state, and local agencies have participated in the quarterly Stakeholder meetings discussed above. Individual meetings have been held with Imperial Irrigation District (IID) and with the USFWS to discuss other future plans, including geothermal development and additional habitat restoration, in the same areas being considered for the SCH ponds. Table 6-2 summarizes the dates and locations of Federal, state, and local agency consultation and coordination meetings.

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Table 6-2 Agency Consultation and Coordination Meeting Dates and Primary Topics Addressed			
Meeting Date	Meeting Location	Agency	Primary Topics Addressed
September 20, 2010	Calipatria, CA	USFWS	Preliminary discussion of USFWS' Red Hill Bay Project – status, description, goals and objectives, permitting status; and preliminary project-sharing opportunities.
October 21, 2010	Imperial, CA	IID	SCH Project's compatibility with IID's required air quality mitigation and the IID-USFWS restoration project at Red Hill Bay; SCH Project's potential conflict with geothermal projects near the Alamo River; maintaining pupfish drain connectivity with the Salton Sea; and IID supplying power to the SCH Project.
October 27, 2010	Imperial, CA	IID	SCH Project's compatibility with geothermal projects; agreement between the State and IID regarding drain connectivity to the Salton Sea; IID will lease lands to SCH Project; and water rights issues on the New and Alamo rivers.
February 11, 2011	Sacramento, CA	IID and USFWS	Description/status of SCH Project; description of USFWS Red Hill Bay Project; issues and relationships with IID Projects; and areas of project overlap/cooperation.
February 14, 2011	Teleconference	IID	Compatibility of the SCH Project with geothermal development on IID land.

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3 **6.2.3 Tribal Consultation and Coordination**

4 As part of its Section 106 consultation process, the Corps requested information regarding cultural and
 5 Native American resources in the SCH Project area from the Torres Martinez Desert Cahuilla Indians,
 6 Quechan Indian Nation, Manzanita Band of the Kumeyaay Nation, La Posta Band of Mission Indians,
 7 Kwaaymii Laguna Band of Mission Indians, Kumeyaay Cultural Heritage Preservation, Fort Yuma
 8 Quechan Nation, Ewiiapyaap Tribal Office, Cocopah Museum, Campo Kumeyaay Nation, Augustine
 9 Band of Cahuilla Mission Indians, and the Ah-Mut-Pipa Foundation. Appendix L contains copies of the
 10 consultation letters sent by the Corps and responses received from the tribes. To date, the only responses
 11 have been a general statement of support for the Project and request for clarification of the location of the
 12 SCH Project in relation to Obsidian Butte from the Quechan Tribe and a statement that the Cocopah
 13 Indian Tribe has no comments at this time.

14 **6.2.4 Elected Officials Consultation and Coordination**

15 A number of elected officials have participated in the quarterly Stakeholder meetings discussed above.
 16 Individual meetings have also been held with elected officials to discuss the SCH Project. Table 6-3
 17 summarizes the dates and locations of elected officials' consultation and coordination meetings.

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Table 6-3 Elected Officials' Consultation and Coordination Meeting Dates and Primary Topics Addressed			
Meeting Date	Meeting Location	Agency	Primary Topics Addressed
July 21, 2010	Palm Desert, CA	John Benoit, Riverside County Supervisor	Status and goals of the SCH Project; feedback and concerns.
January 6, 2011	El Centro, CA	Imperial County District 2 Supervisor Jack Terrazas	Status and goals of the SCH Project; feedback and concerns.
January 25, 2011	El Centro, CA	Imperial County District 4 Supervisor Gary Wyatt	Status and goals of the SCH Project; feedback and concerns.
January 26, 2011	Sacramento, CA	Jose Carmona, Chief of Staff, and Josephina Ramirez, Capitol Director for Assemblyman V. Manuel Perez (80 th Assembly District)	The recent history regarding restoration of the Salton Sea; the status and goals of the SCH Project; feedback and concerns.
February 16, 2011	Sacramento, CA	Senator Bill Emmerson	The recent history regarding restoration of the Salton Sea; the status and goals of the SCH Project; accept feedback and concerns.
February 16, 2011	Sacramento, CA	Jim Anderson, Chief of Staff, and John Ackler, Legislative Aide for Senator Juan Vargas	The recent history regarding restoration of the Salton Sea; the status and goals of the SCH Project; feedback and concerns.
April 19, 2011	Riverside, CA	Marion Ashley, Riverside County Supervisor	The recent history regarding restoration of the Salton Sea; the status and goals of the SCH Project; feedback and concerns.

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